

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7967

TOBIN J. JONES,

Petitioner - Appellant,

versus

GENE JOHNSON, Director, Department of
Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Richmond. David G. Lowe, Magistrate
Judge. (CA-03-466-3)

Submitted: July 29, 2005

Decided: October 5, 2005

Before KING and GREGORY, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed in part; dismissed in part by unpublished per curiam
opinion.

Barbara Lynn Hartung, Richmond, Virginia, for Appellant. Virginia
Bidwell Theisen, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA,
Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Tobin J. Jones appeals the district court's orders denying relief on his petition filed under 28 U.S.C. § 2254 (2000).

Jones alleged the following claims:

- (1) The magistrate judge applied the wrong standard of review when he held a hearing on Jones's claim that he received ineffective assistance of counsel when counsel did not pursue a "not guilty by reason of insanity" defense;
- (2) Defense counsel was ineffective when he withdrew notice of a "not guilty by reason of insanity" defense and proceeded to a jury trial;
- (3) Defense counsel was ineffective in preparing for or countering trial testimony from a jail house informant that Jones confessed;
- (4) The prosecution violated Brady v. Maryland, 373 U.S. 83 (1963), when it failed to disclose Jones's confession to the expert who evaluated Jones's sanity.

By order, we granted a certificate of appealability as to Claims (1), (2), and (4). The Respondent has filed an informal preliminary brief as to those claims, and Jones has filed a reply brief.

After reviewing the parties' filings and the record on appeal, we conclude Claim (1) is meritless, and we affirm the magistrate judge's actions as to that claim. As for Claims (2) and (4), we affirm the magistrate judge's disposition of those claims based upon the reasoning of the magistrate judge. We deny a certificate of appealability and dismiss as to Claim (3) based upon the reasoning of the magistrate judge. See Jones v. Johnson, No.

CA-03-466-3 (E.D. Va. Nov. 8, 2004). We dispense with oral argument because the facts and legal issues are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED IN PART;
DISMISSED IN PART